

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

P16507

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on _____

Signature _____

Typed or printed name _____

Application Number

10/642,702

Filed

08/18/2003

First Named Inventor

Vivek Jaiswal

Art Unit

2141

Examiner

Chirag R. Patel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Richard S. Finkelstein/

Signature

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Richard S. Finkelstein

Typed or printed name

☐ attorney or agent of record.

Registration number _____

(203) 972-4982

Telephone number

☒ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 56,534

November 16, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO in process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11-1.14 and 41 CFR 101-11.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

	Confirmation No.: 4365
)
) Group Art Unit: 2141
)
Appellants: Vivek Jaiswal et. al.	) Examiner: Patel, Chirag R
)
Application No.: 10/642,702	) ARGUMENTS IN SUPPORT OF PRE-
	) APPEAL BRIEF REQUEST FOR
Filing Date: 08/18/2003	) REVIEW
)
For: DYNAMIC LOAD DISTRIBUTION	) Attorney Docket No.: P16507
WITHIN A SESSION INITIATION)
PROTOCOL NETWORK	) PTO Customer Number 28062
	) Buckley, Maschoff & Talwalkar LLC
	) Attorneys for Intel Corporation
	) 50 Locust Avenue
	) New Canaan, CT 06840

Mail Stop AF (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants submit the following arguments in support of the accompanying Pre-Appeal Brief Request For Review.

Arguments begin on page 2 of this paper.

ARGUMENTS

Appellants raise the following arguments as evidence of clear error in the outstanding final rejection of independent claims 1, 7, 14, and 19. Independent claims 1, 7, 14, and 19 each recite a Q-value where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call.

Claims 1, 7, 14, and 19 are rejected under 35 U.S.C. §103(a) as being anticipated by US Patent No. 7,197,556 (“Ton”) in view of US Patent No. 6,790,445 (“O’Neill”) and US Patent Application No. 2002/0141343 (“Bays”). However, the art of record is not seen to disclose or to suggest a Q-value for a first node where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call, and transmitting the Q-value to a second node via one or more load brokers where each load broker is a back-to-back user agent.

A. THE PRIOR ART FAILS TO DISCLOSE OR SUGGEST A Q-VALUE WHERE THE Q-VALUE IS AN INTEGER VALUE BASED ON BOTH (1) A CONTACT PRIORITY AND (2) A NUMBER OF CALLS OR AN AMOUNT OF INFORMATION BEING PROCESSED FOR A CALL

The Final Office Action concedes that Ton “fails to disclose a session initiation protocol and where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call.” However, the Final Office Action states that “Bays discloses where the Q-value is an integer valued based on 1) contact priority. ([0053])” Appellants respectfully disagree.

At [0053], Bays discloses a fill priority that is defined as “an arbitrary integer value that specifies in what sequence a set of tiers should be utilized.” The aforementioned tiers are defined in [0053] as a “pricing tier that consists of a tier number, peak level, billing type, billing rate (in

dollars)... and a fill priority for the given tier.” Therefore, Bays discloses a priority associated with billing tiers but cannot be seen to disclose a contact priority.

Moreover, the Final Office Action fails to disclose BOTH (1) a contact priority and (2) a number of calls or an amount of information being processed for a call. The Office Action states that “(2) a number of calls or an amount of information being processed for a call” is disclosed in [0042] of Ton because “the load information could be the number of mobility bindings (i.e. the number of registered Mobile Nodes)”. Appellants respectfully disagree because the Final Office Action fails to address the language of the claim. Specifically, the Final Office Action fails to address disclosing “a number of calls or an amount of information being processed for a call”.

Ton discloses a Home Agent (“HA”) that exchanges load information with other HAs. Specifically, Ton, at [0042], discloses that the load information “could be the number of mobility bindings and/or the CPU usage on the HA” but nowhere does Ton disclose that the load information comprises either a number of calls or an amount of information being processed for a call.

As stated in M.P.E.P §2143 “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” Since the Final Office Action fails to disclose BOTH (1) a contact priority and (2) a number of calls or an amount of information being processed for a call, the rejection under §103(a) is improper for at least this reason.

B. THE PRIOR ART FAILS TO DISCLOSE OR SUGGEST TRANSMITTING A Q-VALUE TO A NODE VIA ONE OR MORE LOAD BROKERS WHERE EACH LOAD BROKER IS A BACK-TO-BACK USER AGENT.

Ton, at [0042] discloses that the HAs receive all HA IP addresses on the network, and the IP addresses are stored locally by each HA. Furthermore, each HA will communicate with other HAs by using new messages to exchange load information with the other HAs. Since the HAs exchange load information directly (and not through an intermediary), Ton does not disclose the HAs exchanging load information via a load broker.

In view of the foregoing, nowhere can Ton be seen to disclose or to suggest transmitting a Q-value to a second node via one or more load brokers where each load broker is a back-to-back user agent. The remaining art is not seen to disclose or suggest the aforementioned deficiencies in Ton. Therefore, the rejection under §103(a) is improper for at least this reason.

CONCLUSION

For at least the reasons given above, it is submitted that the final rejection of the application is improper and should be withdrawn. If any questions arise regarding the application or any of the cited references, or if the panel has suggestions for expediting allowance of the application, the panel is kindly invited to contact the undersigned via telephone at (203) 972-4982.

Respectfully submitted,

November 16, 2007
Date

/Richard S. Finkelstein/
Richard S. Finkelstein
Registration No. 56,534
Buckley, Maschoff & Talwalkar LLC
Attorneys for Intel Corporation
50 Locust Avenue
New Canaan, CT 06840
(203) 972-4982